

# Senate Study Bill 1148

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
COMMERCE BILL BY  
CHAIRPERSON ANGELO)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to security interests in farm products, providing  
2 for fees and their expenditure, and providing for the Act's  
3 applicability.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
5 TLSB 1772SC 80  
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1 1 Section 1. Section 554.9302, Code 2003, is amended to read  
1 2 as follows:  
1 3 554.9302 LAW GOVERNING PERFECTION AND PRIORITY OF  
1 4 AGRICULTURAL LIENS.  
1 5 While farm products are located in ~~a jurisdiction this~~  
1 6 ~~state, the local law of that jurisdiction governs perfection,~~  
1 7 the effect of perfection or nonperfection, and the priority of  
1 8 an agricultural lien on the farm products shall be governed by  
1 9 provisions of this Code, including but not limited to chapters  
1 10 554E, 570, 570A, 579, 579A, 579B, 580, and 581. The  
1 11 provisions of this chapter shall apply to an agricultural lien  
1 12 on farm products to the extent that the provisions are not in  
1 13 conflict with provisions in another chapter.  
1 14 Sec. 2. NEW SECTION. 554E.1 DEFINITIONS.  
1 15 As used in this chapter, unless the context otherwise  
1 16 requires:  
1 17 1. "Buyer" means a person who, in the ordinary course of  
1 18 business, buys farm products from a person engaged in farming  
1 19 operations who is in the business of selling farm products. A  
1 20 buyer includes a commission merchant and selling agent.  
1 21 2. "Central filing system" means a system for filing  
1 22 effective financing statements, and statements amending,  
1 23 continuing, or terminating effective financing statements as  
1 24 provided in section 554E.5.  
1 25 3. "Commission merchant" means a person engaged in the  
1 26 business of receiving any farm product for sale, on  
1 27 commission, or for or on behalf of another person.  
1 28 4. "Crop year" means the calendar year in which a crop is  
1 29 or will be harvested, animals are born or acquired, or poultry  
1 30 or eggs are or will be sold.  
1 31 5. "Effective financing statement" means a financing  
1 32 statement required to be filed as part of the central filing  
1 33 system as provided in section 554E.6.  
1 34 6. "Knows" means having actual knowledge. "Knowledge"  
1 35 means actual knowledge.  
2 1 7. "Secretary" means the secretary of state.  
2 2 8. "Security interest" means an interest in farm products  
2 3 that secures payment or performance of an obligation in the  
2 4 same manner as provided in chapter 554.  
2 5 9. "Selling agent" means a person, other than a commission  
2 6 merchant, who is engaged in the business of negotiating the  
2 7 sale and purchase of a farm product on behalf of a person  
2 8 engaged in farming operations.  
2 9 Sec. 3. NEW SECTION. 554E.2 SPECIAL DEFINITIONS.  
2 10 To every extent consistent with the application of federal  
2 11 law, unless the context otherwise requires:  
2 12 1. "Agricultural lien" means the same as defined in  
2 13 section 554.9102.  
2 14 2. "Debtor" means a debtor as defined in section 554.9102  
2 15 who has an interest other than a security interest or lien in  
2 16 a farm product, or any other person who owns a farm product  
2 17 and subjects it to a security interest whether or not that  
2 18 person owes a debt to the secured party.  
2 19 3. "Farming operation" means the same as defined in  
2 20 section 554.9102.  
2 21 4. "Farm products" means the same as defined in section

2 22 554.9102.

2 23 5. "Secured party" means a secured party as defined in  
2 24 section 554.9102 in whose favor a security interest in farm  
2 25 products is created.

2 26 6. "Security interest" means an interest in farm products  
2 27 that secures payment or performance of an obligation in the  
2 28 same manner as provided in chapter 554.

2 29 Sec. 4. NEW SECTION. 554E.3 UNIFORM COMMERCIAL CODE.

2 30 This chapter shall be interpreted in conjunction with  
2 31 chapter 554, and terms and phrases used in this chapter shall,  
2 32 to every extent practicable, be interpreted consistently with  
2 33 chapter 554, article 9.

2 34 Sec. 5. NEW SECTION. 554E.4 AGRICULTURAL LIENS.

2 35 A security interest perfected under this chapter does not  
3 1 create a superior interest to an agricultural lien created in  
3 2 another chapter that expressly provides that its provisions  
3 3 are superior.

3 4 Sec. 6. NEW SECTION. 554E.5 CENTRAL FILING SYSTEM ==  
3 5 ESTABLISHMENT AND CERTIFICATION.

3 6 The secretary of state shall establish and administer a  
3 7 central filing system for filing effective financing  
3 8 statements or statements amending, continuing, or terminating  
3 9 effective financing statements on a statewide basis.

3 10 1. The central filing system shall provide for the  
3 11 electronic filing and examining of effective financing  
3 12 statements, or statements amending, continuing, or terminating  
3 13 effective financing statements.

3 14 2. The central filing system shall be designed to allow  
3 15 persons to file and examine these documents using the  
3 16 internet. Until July 1, 2007, the secretary shall provide for  
3 17 the filing and examining of these documents in a paper format,  
3 18 including the compilation and distribution of master lists as  
3 19 provided in this chapter. After that date the secretary may  
3 20 provide for the filing and examining of the documents in a  
3 21 paper format.

3 22 3. The secretary, by rules adopted pursuant to chapter  
3 23 17A, shall list farm products that may include the list of  
3 24 farm products set forth in 9 C.F.R. } 205.206.

3 25 4. The central financing system must comply with the  
3 26 requirements set forth in 7 U.S.C. } 1631 which has been  
3 27 certified by the United States secretary of agriculture prior  
3 28 to implementation.

3 29 Sec. 7. NEW SECTION. 554E.6 EFFECTIVE FINANCING  
3 30 STATEMENTS == FILING REQUIREMENTS.

3 31 The secretary of state shall provide for filing effective  
3 32 financing statements, and statements amending, continuing, or  
3 33 terminating effective financing statements, as provided in  
3 34 this section. The secretary shall prescribe all forms to be  
3 35 used for filing. Presentation for filing of a statement and  
4 1 the acceptance of the statement by the secretary constitutes  
4 2 filing under this section.

4 3 1. An effective financing statement shall be valid if it  
4 4 substantially complies with the requirements of this section  
4 5 even though it contains minor errors that are not seriously  
4 6 misleading.

4 7 2. An effective financing statement must be an original or  
4 8 reproduced copy which is signed by the secured party and the  
4 9 debtor. The statement must be filed with the secretary by the  
4 10 secured party. The secretary shall record the date and hour  
4 11 of the filing of the effective financing statement. The  
4 12 statement must contain information that the secretary requires  
4 13 to comply with 7 U.S.C. } 1631 or to administer this section.

4 14 3. An effective financing statement must contain all of  
4 15 the following:

4 16 a. The name and address of the secured party.

4 17 b. The name and address of the debtor.

4 18 c. The social security number of the debtor or, in the  
4 19 case of a debtor doing business other than as an individual,  
4 20 the internal revenue service taxpayer identification number of  
4 21 the debtor.

4 22 d. A description of the farm products subject to the  
4 23 security interest, the county in Iowa where the farm products  
4 24 are produced or will be produced, the crop year unless every  
4 25 crop of the farm product in question for the duration of the  
4 26 effective financing statement is to be subject to the  
4 27 particular security interest, further details of the farm  
4 28 product subject to the security interest if needed to  
4 29 distinguish it from other quantities of the farm product owned  
4 30 by the same person or persons but not subject to the  
4 31 particular security interest, and other information that the  
4 32 secretary requires to administer this section. The effective

4 33 financing statement may cover more than one farm product  
4 34 located in more than one county.

4 35 e. Whether the secured party demands that a buyer issue a  
5 1 check for payment jointly to the debtor and the secured party  
5 2 for the purchase of the farm products.

5 3 4. A continuation statement shall be signed by the secured  
5 4 party and the debtor, identify the original effective  
5 5 financing statement by file number, and state that the  
5 6 original financing statement is still effective.

5 7 Sec. 8. NEW SECTION. 554E.7 EFFECTIVE FINANCING  
5 8 STATEMENTS == EFFECTIVENESS.

5 9 The following shall apply to an effective financing  
5 10 statement:

5 11 1. The effective financing statement shall remain  
5 12 effective for a period of five years from the date of filing,  
5 13 subject to extensions for additional periods of five years  
5 14 each by filing or refiling a continuation statement within six  
5 15 months before the expiration of the five-year period.

5 16 2. Upon timely filing of a continuation statement, the  
5 17 effectiveness of the original financing statement shall be  
5 18 continued for five years after the last date to which the  
5 19 filing was effective, whereupon it shall lapse unless another  
5 20 continuation statement is filed prior to the lapse.

5 21 Succeeding continuation statements may be filed in the same  
5 22 manner to continue the effectiveness of the original effective  
5 23 financing statement.

5 24 3. The effective financing statement shall be amended in  
5 25 writing to reflect a material change within three months of  
5 26 the change. The amendment shall be signed and filed as  
5 27 required for an original effective financing statement.

5 28 4. The effective financing statement lapses upon the  
5 29 expiration of the effective period of the effective financing  
5 30 statement or is terminated upon the filing of a statement  
5 31 signed by the secured party that the effective financing  
5 32 statement is terminated.

5 33 a. If the effective financing statement has not lapsed or  
5 34 is not terminated and there are no outstanding secured  
5 35 obligation and no commitment to make advances, incur  
6 1 obligations, or otherwise give value, the debtor may notify  
6 2 the secured party in writing to terminate the effective  
6 3 financing statement.

6 4 b. Until the debtor instructs the secured party in writing  
6 5 to terminate the effective financing statement, the secured  
6 6 party has no obligation to terminate the effective financing  
6 7 statement.

6 8 c. Within thirty days after receipt by the secured party  
6 9 of the statement from the debtor to terminate the effective  
6 10 financing statement, the secured party shall file with the  
6 11 secretary a termination statement with respect to the  
6 12 effective financing statement.

6 13 Sec. 9. NEW SECTION. 554E.8 MASTER LIST == ORGANIZATION  
6 14 AND CONTENTS.

6 15 The secretary shall compile the effective financing  
6 16 statements into a master list subject to all of the following:

6 17 1. The master list shall be organized according to farm  
6 18 products. The master list shall contain information required  
6 19 to be contained in effective financing statements filed with  
6 20 the secretary. The secretary shall arrange the master list  
6 21 for each farm product as follows:

6 22 a. In alphabetical order according to the last name of the  
6 23 individual debtors or, in the case of debtors doing business  
6 24 other than as individuals, the first word in the name of such  
6 25 debtors.

6 26 b. In numerical order according to the social security  
6 27 numbers of the individual debtors or, in the case of debtors  
6 28 doing business other than as individuals, the internal revenue  
6 29 service taxpayer identification numbers of the debtors.

6 30 c. Geographically by county.

6 31 d. By crop year.

6 32 2. The master list shall include information regarding  
6 33 buyers who register with the secretary on forms prescribed by  
6 34 the secretary as provided in this section.

6 35 3. The secretary shall maintain a list of all buyers of  
7 1 farm products who register with the secretary. A buyer  
7 2 registering with the secretary shall complete forms requiring  
7 3 all of the following information, as prescribed by the  
7 4 secretary:

7 5 a. The name and address of the buyer.

7 6 b. The interest of the buyer in receiving the list.

7 7 c. The farm products in which the buyer has an interest.

7 8 d. Whether the secured party demands that a buyer issue a

7 9 check for payment jointly to the debtor and the secured party  
7 10 for the purchase of the farm products.

7 11 Sec. 10. NEW SECTION. 554E.9 MASTER LIST == DISTRIBUTION  
7 12 AND INQUIRIES.

7 13 1. The secretary shall distribute to each registered buyer  
7 14 a copy in written, printed, or electronic form of those  
7 15 portions of the master list relating to farm products in which  
7 16 the buyer has registered an interest. The secretary may  
7 17 provide for the distribution of the master list or portions of  
7 18 the list on any other medium requested by a registered buyer.  
7 19 If a registered buyer so requests, the information provided to  
7 20 the buyer may be limited to a county or group of counties  
7 21 where the farm product is produced or to a crop year or crop  
7 22 years or to a combination of those identifiers.

7 23 2. Distribution is subject to all of the following:

7 24 a. The distribution shall be by first class or electronic  
7 25 mail.

7 26 b. The secretary shall, by rule, establish the dates upon  
7 27 which the quarterly distributions will be made, the dates  
7 28 after which a filing of an effective financing statement will  
7 29 not be reflected on the next quarterly distribution of lists,  
7 30 and the dates by which a buyer must complete a registration to  
7 31 receive the next quarterly list.

7 32 3. The secretary shall remove information pertaining to  
7 33 lapsed and terminated effective financing statements from the  
7 34 master list prior to preparation of the lists required to be  
7 35 distributed.

8 1 4. Upon written notice to the secretary by a registered  
8 2 buyer, the secretary shall terminate distribution of the list  
8 3 to the registered buyer.

8 4 5. Oral and written inquiries by a buyer not registered  
8 5 pursuant to section 554E.8 may be made to the secretary during  
8 6 hours determined by the secretary.

8 7 a. The secretary shall maintain a toll-free telephone line  
8 8 for purposes of responding to oral inquiries. An oral  
8 9 response to inquiries shall be available to an inquiring  
8 10 nonregistered buyer not later than on the regular business day  
8 11 following the day on which the inquiry was received, at or  
8 12 before the time of day when it was received.

8 13 b. Written confirmation of the information provided orally  
8 14 in response to the inquiry shall be delivered by first class  
8 15 mail or electronic mail to the buyer, at an address provided  
8 16 by the buyer, by the secretary not later than the second  
8 17 regular business day following the day on which the inquiry  
8 18 was received.

8 19 6. In order to verify the existence or nonexistence of a  
8 20 security interest, a buyer may request a seller to disclose  
8 21 the seller's social security number or, in the case of a  
8 22 seller doing business other than as an individual, the  
8 23 internal revenue service taxpayer identification number of the  
8 24 seller.

8 25 Sec. 11. NEW SECTION. 554E.10 PERFECTION == CREATION OF  
8 26 SUPERIOR INTERESTS.

8 27 1. The following shall apply:

8 28 a. A buyer who is engaged in farming operations and who  
8 29 buys farm products from a seller who is also engaged in  
8 30 farming operations shall take free of a security interest  
8 31 created by the seller, even though the security interest is  
8 32 perfected and the buyer knows of the existence of the security  
8 33 interest.

8 34 b. Except as provided in this section, a buyer who is not  
8 35 engaged in farming operations and who buys farm products from  
9 1 a seller engaged in farming operations shall take free of a  
9 2 security interest created by the seller, even though the  
9 3 security interest is perfected and the buyer knows of the  
9 4 existence of the security interest.

9 5 2. Until the secretary establishes an electronic central  
9 6 filing system as provided in section 554E.5, the following  
9 7 shall apply:

9 8 a. If the buyer fails to register with the secretary prior  
9 9 to the purchase of farm products, the buyer takes subject to a  
9 10 security interest in the farm products only if the secured  
9 11 party has filed an effective financing statement that covers  
9 12 the farm products being sold, the secured party demands that a  
9 13 buyer issue a check for payment jointly to the debtor and the  
9 14 secured party for the purchase of the farm products as  
9 15 memorialized in the effective financing statement, and the  
9 16 buyer could have discovered the existence of the effective  
9 17 financing statement prior to the purchase by making an inquiry  
9 18 as provided in section 554E.9. The buyer shall take free of  
9 19 the security interest if the buyer could not have discovered

9 20 the existence of a filed effective financing statement because  
9 21 it is not available for public disclosure.  
9 22 b. If the buyer registers with the secretary prior to the  
9 23 purchase of the farm products, the buyer takes subject to a  
9 24 security interest in the farm products only if the secured  
9 25 party has filed an effective financing statement that covers  
9 26 the farm products being sold, the secured party demands that  
9 27 the buyer issue a check for payment jointly to the debtor and  
9 28 the secured party for the purchase of the farm products as  
9 29 memorialized in the effective financing statement, and the  
9 30 buyer receives from the secretary a master list or a portion  
9 31 of the master list that identifies both the seller and the  
9 32 farm products being sold by the seller as being subject to an  
9 33 effective financing statement, and the buyer does not secure a  
9 34 waiver or release of the security interest as specified in the  
9 35 effective financing statement.

10 1 3. When the secretary establishes an electronic central  
10 2 filing system as provided in section 554E.5, the buyer of farm  
10 3 products takes subject to a security interest in the farm  
10 4 product if the secured party has filed an effective financing  
10 5 statement that covers the farm products being sold, the  
10 6 secured party demands that a buyer issue a check for payment  
10 7 jointly to the debtor and the secured party for the purchase  
10 8 of the farm products as memorialized in the effective  
10 9 financing statement, and the buyer could have discovered the  
10 10 existence of the effective financing statement prior to the  
10 11 purchase by accessing the data base containing effective  
10 12 financing statements filed electronically with the secretary.  
10 13 The buyer shall take free of the security interest, if the  
10 14 buyer could not have discovered the existence of a filed  
10 15 effective financing statement because it is not available for  
10 16 public disclosure.

10 17 Sec. 12. NEW SECTION. 554E.11 FEES.

10 18 The secretary shall establish fees for initially filing  
10 19 effective financing statements, or a statement amending,  
10 20 continuing, or terminating an effective financing statement.  
10 21 The fees shall not be more than provided for filing financing  
10 22 statements as provided in section 554.9525. Notwithstanding  
10 23 section 22.3, on July 1, 2005, the secretary of state may  
10 24 charge a buyer a fee for registering to receive a master list  
10 25 or for receiving responses to inquiries which are accessed in  
10 26 a printed format. The secretary shall not charge a buyer a  
10 27 fee for registering to receive a master list or for responding  
10 28 to buyer inquiries, including by examining or printing  
10 29 effective financing statements, and statements amending,  
10 30 continuing, or terminating effective financing statements  
10 31 which are accessed in an electronic format. All moneys  
10 32 received by the secretary under this section shall be handled  
10 33 in the same manner as repayment receipts as defined in section  
10 34 8.2, and shall be used by the secretary exclusively for the  
10 35 administration of this chapter.

11 1 Sec. 13. DIRECTIONS TO THE SECRETARY OF STATE.

11 2 Notwithstanding the date that all provisions of this Act  
11 3 become applicable, the secretary of state shall adopt rules  
11 4 necessary to implement this Act. If necessary to obtain  
11 5 federal certification of the central filing system, additional  
11 6 or alternative requirements made in conformity with 7 U.S.C. }  
11 7 1631 may be imposed by the secretary of state by rule.

11 8 Sec. 14. APPLICABILITY. The requirements of this Act  
11 9 governing the purchase of farm products by a buyer who in the  
11 10 ordinary course of business buys a farm product from a seller  
11 11 engaged in farming operations subject to or free of a security  
11 12 interest shall not apply until three months following federal  
11 13 certification of a central filing system as provided in this  
11 14 Act pursuant to 7 U.S.C. } 1631. The secretary shall provide  
11 15 notice of the applicability date in the Iowa administrative  
11 16 bulletin in three consecutive issues prior to the  
11 17 applicability date. Until that date, persons shall take  
11 18 subject to or free of a security interest in the same manner  
11 19 and according to the same procedures applicable on June 30,  
11 20 2003.

11 21 EXPLANATION

11 22 PROVISIONS OF THE BILL. This bill creates a centralized  
11 23 filing system for this state. The system is administered by  
11 24 the secretary of state, who must provide for filing effective  
11 25 financing statements on a statewide basis. The secretary of  
11 26 state must produce a master list of information required to be  
11 27 contained in the effective financing statements in printed and  
11 28 electronic formats. The bill provides requirements for the  
11 29 contents and duration of an effective financing statement.  
11 30 The bill provides for the distribution of information by the

11 31 secretary of state regarding effective financing statements to  
11 32 interested persons by sending the information to buyers  
11 33 registered with the secretary and by answering specific oral  
11 34 and written inquiries. The bill provides that the secretary  
11 35 of state must establish an electronic system for filing and  
12 1 accessing effective financing statements and related  
12 2 statements.

12 3 The bill authorizes the secretary of state to establish  
12 4 fees for filing effective financing statements. The bill  
12 5 authorizes the secretary of state to establish fees for  
12 6 distributing printed versions of the master list and  
12 7 responding in writing to questions on and after July 1, 2007.

12 8 The bill provides special applicability provisions. The  
12 9 secretary of state is required to establish the centralized  
12 10 filing system and obtain federal certification. Centralized  
12 11 filing must be implemented three months following  
12 12 certification. Until that date the federal version of the  
12 13 notice procedures will continue to apply.

12 14 BACKGROUND. In 2000, the general assembly enacted House  
12 15 File 2513 (2000 Iowa Acts, chapter 1149) adopting revisions to  
12 16 Article 9 of the uniform commercial code (Code chapter 554),  
12 17 as proposed by the American law institute and the national  
12 18 conference of commissioners on uniform state laws, including  
12 19 conforming amendments to a number of articles within that  
12 20 chapter as well as other chapters providing for security  
12 21 interests and especially agricultural liens which are  
12 22 generally not covered by the uniform commercial code.

12 23 One of the sections that was amended in House File 2513 was  
12 24 Code section 554.9307, which provides that a buyer in the  
12 25 ordinary course of business takes free of a security interest  
12 26 created by the seller, unless the buyer purchases farm  
12 27 products. House File 2513 includes a similar provision, Code  
12 28 section 554.9320, which also relates to farm products. The  
12 29 exception for farm products is sometimes referred to as "the  
12 30 farm products rule".

12 31 In 1985, Congress enacted legislation providing two  
12 32 approaches for notifying buyers of farm products: a system of  
12 33 certified central filing and the already-existing system for  
12 34 actual notification. In 1987, the general assembly enacted  
12 35 legislation requiring actual notification to buyers. On July  
13 1 1, 2001, Iowa's version of the farm products rule contained in  
13 2 Code section 554.9407 was eliminated and the federal  
13 3 notification provisions which are substantially similar to  
13 4 Iowa's old rule governs since the state has not adopted a  
13 5 system of central notification. Under current law, a buyer in  
13 6 the ordinary course of business buying farm products from a  
13 7 debtor engaged in farming operations takes subject to a  
13 8 security interest created by the debtor only if within one  
13 9 year before the sale of the farm products the buyer receives  
13 10 prior written notice of the security interest.

13 11 LSB 1772SC 80

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